

WIFIA MASTER AGREEMENT

for the

SCVWD MASTER PROGRAM FOR SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION

Effective Date: [●], 2023

and

WIFIA LOAN AGREEMENT

for the

**SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM – PROJECT 1
(WIFIA ID – 21116CA) (the “Project”)**

WIFIA Loan Agreement Effective Date: [●], 2023

Closing Deliverables Checklist

| <u>Parties</u> | |
|-----------------------|--|
| Designation | Party |
| Borrower | Santa Clara Valley Water District Public Facilities Financing Corporation |
| District | Santa Clara Valley Water District |
| WIFIA Lender | United States Environmental Protection Agency (acting by and through the Administrator of the Environmental Protection Agency) |

| <u>Counsel</u> | |
|-----------------------|--|
| Designation | Party |
| Borrower GC | General Counsel to the Borrower |
| District GC | General Counsel to the District |
| Stradling | Stradling Yocca Carlson & Rauth, bond counsel to the Borrower and District |
| Shearman | Shearman & Sterling LLP, counsel to WIFIA Lender |

Defined Terms and Section References: Except as otherwise specified herein, all capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the WIFIA Master Agreement and all section references are to the WIFIA Master Agreement.

PART I: WIFIA MASTER AGREEMENT

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
|---------------------|-----------|---|-------------------------|---|--------------------|--------------------------------|
| | A. | WIFIA LOAN DOCUMENTS | | | | |
| 1. | 1. | WIFIA Master Agreement (“WMA”) | Shearman / Stradling | <input type="checkbox"/> Borrower <input type="checkbox"/> District <input type="checkbox"/> WIFIA Lender | WMA 11(a)(i) | S&S draft circulated 10/31/22. |
| | | Schedule I – Master Program Schedule | Borrower / District | | | Complete. |
| | | Schedule II – Master Program Budget | Borrower / District | | | Complete. |
| | | Schedule 7(d) – Flow of Funds | Shearman / Stradling | | | Complete. |
| | | Schedule 12(f) – Litigation | Borrower / District | | | Complete. |
| | | Exhibit A – Form of WIFIA Note | Shearman / Stradling | | | Agreed form. |
| | | Exhibit B – Requisition Procedures | WIFIA Lender / Shearman | | | Agreed form. |
| | | Exhibit C – Form of Certification of Eligible Project Costs Documentation | Shearman / Stradling | | | Agreed form. |
| | | Exhibit D – Form of WIFIA Loan Request | Shearman / Stradling | | | Agreed form. |
| | | Exhibit E-1 – Form of Opinion of Borrower’s General Counsel | Shearman / Borrower GC | | | Agreed form. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
|---------------------|--|---|-------------------------|-----------|--------------------|-------------------|
| | | Exhibit E-2 – Form of Opinion of Borrower’s Bond Counsel | Shearman / Stradling | | | Agreed form. |
| | | Exhibit E-3 – Form of Opinion of District’s General Counsel | Shearman / District GC | | | Agreed form. |
| | | Exhibit E-4 – Form of Opinion of District’s Bond Counsel | Shearman / Stradling | | | Agreed form. |
| | | Exhibit F-1 – Form of Closing Certificate of Borrower | Shearman | | | Agreed form. |
| | | Exhibit F-2 – Form of Closing Certificate of District | Shearman | | | Agreed form. |
| | | Exhibit F-3 – Form of Project Closing Certificate of Borrower | Shearman | | | Agreed form. |
| | | Exhibit F-4 – Form of Project Closing Certificate of District | Shearman | | | Agreed form. |
| | | Exhibit G – Form of Certificate of Substantial Completion | Shearman | | | Agreed form. |
| | | Exhibit H – Form of Construction Monitoring Report | Shearman | | | Agreed form. |
| | | Exhibit I – Form of Public Benefits Report | WIFIA Lender / Borrower | | | See II.E.7. |
| | | Exhibit J – Form of WIFIA Project Term Sheet | WIFIA Lender / Borrower | | | Agreed form. |
| | | Exhibit K – Form of WIFIA Loan | Shearman / Stradling | | | Agreed form. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
|---------------------|-----------|------------------------------------|-------------------------|--|------------------------------------|-------------------------------------|
| | | Agreement | | | | |
| | | Exhibit L – Form of WIFIA IPA | WIFIA Lender / Borrower | | | Agreed form. |
| 2. | 2. | Master Resolution | District | <input checked="" type="checkbox"/> District | WMA 11(a)(ii) | Complete. |
| 3. | 3. | WIFIA District Resolution | District | <input checked="" type="checkbox"/> District | WMA 11(a)(iv) | Complete. |
| 4. | 4. | WIFIA Borrower Resolution | Borrower | <input checked="" type="checkbox"/> Borrower | WMA 11(a)(v) | Complete. |
| | C. | OPINIONS | | | | |
| 5. | 1. | Opinion of Borrower’s Counsel | Borrower GC | <input type="checkbox"/> Borrower GC | WMA 11(a)(vi) (WMA Exhibit E-1) | Stradling draft provided 1/16/2023. |
| 6. | 2. | Opinion of Borrower’s Bond Counsel | Stradling | <input type="checkbox"/> Stradling | WMA 11(a)(vi) (WMA Exhibit E-2) | Stradling draft provided 1/16/2023. |
| 7. | 3. | Opinion of District’s Counsel | District GC | <input type="checkbox"/> District GC | WMA 11(a)(vi) (WMA Exhibit E-3) | Stradling draft provided 1/16/2023. |
| 8. | 4. | Opinion of District’s Bond Counsel | Stradling | <input type="checkbox"/> Stradling | WMA 11(a)(vi) (WMA Exhibit E-4) | Stradling draft provided 1/16/2023. |

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| | D. | CERTIFICATES | | | | |
| 9. | 1. | Borrower Closing Certificate | Borrower / Stradling | <input type="checkbox"/> Borrower | WMA 11(a)(vii) (WMA Exhibit F-1) | Borrower draft provided 1/16/2023. |
| | | Annex A – Form of Incumbency Certificate | | | | |
| 10. | 2. | District Closing Certificate | District / Stradling | <input type="checkbox"/> District | WMA 11(a)(viii) (WMA Exhibit F-2) | District draft provided 1/16/2023. |
| | | Annex A – Form of Incumbency Certificate | | | | |
| 11. | 3. | Incumbency Certificate of Borrower | Borrower | <input type="checkbox"/> Authorized Signatories <input type="checkbox"/> Borrower | WMA 11(a)(vii) (WMA Annex A to Exhibit F-1) | Attached as Annex A to the Borrower Closing Certificate. |
| 12. | 4. | Incumbency Certificate of District | District | <input type="checkbox"/> Authorized Signatories <input type="checkbox"/> District | WMA 11(a)(viii) (WMA Annex A to Exhibit F-2) | Attached as Annex A to the District Closing Certificate. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
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| | E. | MISCELLANEOUS DELIVERABLES | | | | |
| 13. | 1. | Borrower's Organizational Documents | Borrower | | WMA 11(a)(iii) | Complete. |
| 14. | 2. | District's Organizational Documents | District | | WMA 11(a)(iii) | Complete. |
| 15. | 3. | Payment of all invoices delivered by WIFIA Lender | District | | WMA 11(a)(ix) | Complete (none). |
| 16. | 4. | Establishment of WIFIA Debt Service Account and the pledge thereof for the sole benefit of the Borrower | District | | WMA 11(a)(x) | Complete. |
| 17. | 5. | Investment Policy | District | | WMA 11(a)(xi) | Complete. |
| | F. | CERTIFICATIONS | | | | |
| | 1. | Representations and warranties of Borrower are true and correct | Borrower | | WMA 11(a)(vii)(A) | Certification included in the Borrower Closing Certificate. |
| | 2. | No Borrower MAE, or any event or condition that could reasonably be expected to have a Borrower MAE, has occurred or arisen since the date of the Application | Borrower | | WMA 11(a)(vii)(B) | Certification included in the Borrower Closing Certificate. |
| | 3. | District has (x) obtained a FEIN, (y) obtained a Unique Entity Identifier, and (z) registered with, | District | | WMA 11(a)(viii)(A) | Complete (Renewed registration received from District on 1/5/2023). Attached as Annex B-1 and Annex B-2 to the District Closing Certificate. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
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| | | and obtained confirmation of active registration status from, SAM | | | | Certification included in the District Closing Certificate. |
| | 4. | Representations and warranties of District are true and correct | District | | WMA 11(a)(viii)(B) | Certification included in the District Closing Certificate. |
| | 5. | No District MAE, or any event or condition that could reasonably be expected to have a District MAE, has occurred or arisen since the date of the Application | District | | WMA 11(a)(viii)(C) | Certification included in the District Closing Certificate. |

PART II: WIFIA Loan Agreement (Project 1)

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
|---------------------|-----------|--|------------------------------------|---|--------------------|---|
| | A. | WIFIA LOAN DOCUMENTS | | | | |
| 18. | 1. | Project Term Sheet | Shearman / Stradling | <input type="checkbox"/> Borrower <input type="checkbox"/> District <input type="checkbox"/> WIFIA Lender | WMA 11(b)(ii)(A) | Agreed form. |
| 19. | 2. | WIFIA Loan Agreement (“WLA”) | Shearman / Stradling | <input type="checkbox"/> Borrower <input type="checkbox"/> District <input type="checkbox"/> WIFIA Lender | WMA 11(b)(ii)(B) | Agreed form. |
| | | Schedule I – Project Budget | Borrower / District | | | WIFIA Lender to confirm (subject to NEPA process). |
| | | Schedule II – Construction Schedule | Borrower / District | | | Complete. |
| | | Schedule III – Project | Borrower / District / WIFIA Lender | | | Complete. |
| | | Schedule 13(m) – Existing Construction Contracts | Borrower / District | | | Complete (none). |
| | | Exhibit A – WIFIA Loan Amortization Schedule | WIFIA Lender | | | WIFIA Lender to provide on the WIFIA Loan Agreement Effective Date. |
| 20. | 3. | WIFIA IPA | Shearman / Stradling | <input type="checkbox"/> Borrower <input type="checkbox"/> District | WMA 11(b)(ii)(C) | Agreed form. |
| 21. | 4. | WIFIA Note | Borrower / Stradling | <input type="checkbox"/> Borrower | WMA 11(b)(iii) | Borrower draft provided 1/19/2023. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
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| | | | | | (WMA Exhibit A) | |
| | C. | OPINIONS WITH RESPECT TO PROJECT | | | | |
| | 1. | Opinion of Borrower's Counsel | Borrower GC | <input type="checkbox"/> Borrower GC | WMA 11(b)(v) (WMA Exhibit E-1) | See I.C.1. |
| | 2. | Opinion of Borrower's Bond Counsel | Stradling | <input type="checkbox"/> Stradling | WMA 11(b)(v) (WMA Exhibit E-2) | See I.C.2. |
| | 3. | Opinion of District's Counsel | District GC | <input type="checkbox"/> District GC | WMA 11(b)(v) (WMA Exhibit E-3) | See I.C.3. |
| | 4. | Opinion of District's Bond Counsel | Stradling | <input type="checkbox"/> Stradling | WMA 11(b)(v) (WMA Exhibit E-4) | See I.C.4. |
| | D. | CERTIFICATES WITH RESPECT TO PBOJECT | | | | |
| 22. | 1. | Borrower Project Closing Certificate | Borrower / Stradling | <input type="checkbox"/> Borrower | WMA 11(b)(vii) (WMA Exhibit F-3) | Borrower draft provided 1/16/2023. |
| 23. | 2. | District Project Closing Certificate | District / Stradling | <input type="checkbox"/> District | WMA 11(b)(viii) (WMA Exhibit F-4) | District draft provided 1/16/2023. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
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| | E. | MISCELLANEOUS DELIVERABLES | | | | |
| | 1. | WIFIA Loan Request | District | | WMA 11(b)(i) | Not required for Project 1. |
| | 2. | Related Documents (other than WIFIA Loan Documents) | Borrower / District | | WMA 11(b)(iv) | Complete (no other Obligation Document). |
| | 3. | Each Existing Construction Contract with respect to the Project, together with any amendments, waivers or modifications thereto | Borrower / District | | WMA 11(b)(iv) | Complete (none). |
| | 4. | Project Budget for the Project | Borrower / District | | WMA 11(b)(vi) | <i>See Schedule I to WLA.</i> |
| 24. | 5. | Evidence of assignment from at least 1 Nationally Recognized Rating Agency of a public Investment Grade Rating on the WIFIA Loan (including at least one public rating) | Borrower | <input checked="" type="checkbox"/> Fitch | WMA 11(b)(ix) | Complete. |
| | 6. | Most recent Updated Financial Model/Plan | District | | WMA 11(b)(x) | Complete. |
| 25. | 7. | Public Benefits Report | District | | WMA 11(b)(xi) | Borrower comments to WIFIA Lender draft received on 12/1/22. |
| | 8. | Any outstanding Servicing Fees due and all invoices delivered by the WIFIA Lender to the District | District | | WMA 11(b)(xii) | Complete (none). |

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| | F. | CERTIFICATIONS | | | | |
| | 1. | As of the WIFIA Loan Agreement Effective Date, (x) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed 49% of reasonably anticipated Eligible Project Costs; and (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed 80% of Total Project Costs | Borrower | | WMA 11(b)(vii)(A) | Certification included in the Borrower Project Closing Certificate. |
| | 2. | Borrower has obtained a WIFIA CUSIP Number | Borrower | | WMA 11(b)(vii)(B)(1) | Received CUSIP confirmation email. Certification included in the Borrower Project Closing Certificate. |
| | 3. | Representations and warranties of Borrower are true and correct | Borrower | | WMA 11(b)(vii)(C) | Certification included in the Borrower Project Closing Certificate. |
| | 4. | No Borrower MAE, or any event or condition that could reasonably be expected to have a Borrower MAE, has occurred or arisen since the Effective Date | Borrower | | WMA 11(b)(vii)(D) | Certification included in the Borrower Project Closing Certificate. |
| | 5. | As of the WIFIA Loan Agreement Effective Date, (x) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed 49% of | District | | WMA 11(b)(viii)(A) | Certification included in the District Project Closing Certificate. |

| Closing Room Number | | Item / Document | Responsible Party | Signatory | Document Reference | Status / Comments |
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| | | reasonably anticipated Eligible Project Costs; and (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed 80% of Total Project Costs | | | | |
| | 6. | District is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project | District | | WMA 11(b)(viii)(B) | Complete. Certification included in the District Project Closing Certificate. |
| | 7. | District has maintained (x) the FEIN, (y) the Unique Entity Identifier, and (z) active registration status with SAM | District | | WMA 11(b)(viii)(C) | Complete (renewed registration received from District on 1/5/2023). Certification included in the District Project Closing Certificate. |
| | 8. | Representations and warranties of District are true and correct | District | | WMA 11(b)(viii)(D) | Certification included in the District Project Closing Certificate. |
| | 9. | No District MAE, or any event or condition that could reasonably be expected to have a District MAE, has occurred or arisen since the Effective Date | District | | WMA 11(b)(viii)(E) | Certification included in the District Project Closing Certificate. |
| | 10. | No component of the Project (1) has been authorized by the Congress to be carried out by the Secretary of the Army or by the U.S. Bureau of Reclamation of construction or (2) is a local cost share requirement for a project of the U.S. Army Corps of Engineers or the U.S. Bureau of Reclamation. | District | | WMA 11(b)(viii)(F) | Certification included in the District Project Closing Certificate. |

